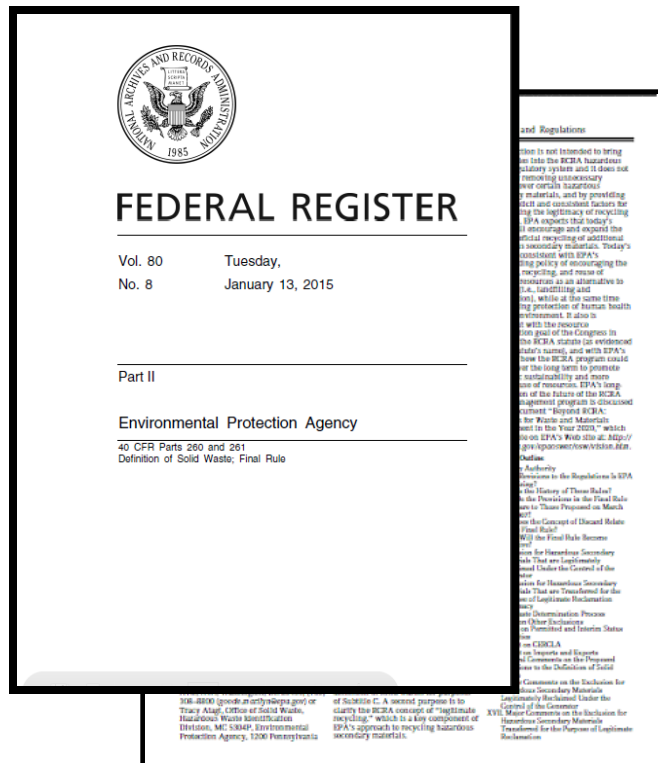


Overview of the 2015 Definition of Solid Waste Regulation



Module 1: Overview

Module 2: Under the Control of the Generator Exclusion

Module 3: Verified Recycler Exclusion

Module 4: Remanufacturing Exclusion

Module 1: Overview

Three conditional exclusions:

1. Generator Controlled Exclusion
2. Verified Recycling Exclusion
3. Remanufacturing Exclusion

- Hazardous secondary materials recycled under these exclusions are not solid wastes, as long as the conditions are met.
- Limited to domestic recycling only; the final rule removes the transfer-based export exclusion at 40 CFR 261.4(a)(25)

Codified definition of legitimate recycling, which distinguishes between real recycling vs. sham recycling

About the 2015 DSW Exclusions

- Only apply to “**hazardous secondary materials**,” which are secondary materials that, when discarded, would be hazardous wastes
- These exclusions do not affect or replace any existing exclusion, exemption, or determination
- These DSW exclusions are **optional**
 - RCRA authorized states can choose whether to adopt the exclusions
 - Facilities in states that adopt can choose whether to manage hazardous secondary materials under the rule

What hazardous secondary materials are eligible for the new DSW exclusions?	YES	NO
<ul style="list-style-type: none">• Spent materials (e.g., spent solvents, spent acids) being reclaimed (e.g., regenerated)• Listed sludges (e.g., electric arc furnace dust) being reclaimed (e.g., metals recovery)• Listed byproducts being reclaimed• Spent petroleum catalysts (K171, K172)• Metals recovery in smelting, melting and refining furnaces that meet the BIF exclusion requirements found in 40 CFR 266.100(d) and 266.112	<div>✓</div> <div>✓</div> <div>✓</div> <div>✓</div> <div>✓</div>	
<ul style="list-style-type: none">• Materials burned for energy recovery or “use constituting disposal”• Inherently waste-like materials (e.g., dioxins)• Materials already excluded under 40 CFR 261.4• Spent lead-acid batteries• Materials managed in thermal treatment units that involve destruction of hazardous constituents (e.g., carbon regeneration units)		<div>✓</div> <div>✓</div> <div>✓</div> <div>✓</div> <div>✓</div>

Major Components of the DSW Rule

1. *Under the Control of the Generator Exclusion (40 CFR 261.4(a)(23))*

Strengthened the self-implementing exclusion for materials generated and reclaimed under the control of the generator

2. *Verified Recycler Exclusion (40 CFR 261.4(a)(24))*

Exclusion for materials generated and transferred to another company for reclamation where the recycler is “verified” by EPA or the state through a RCRA permit or a DSW variance

3. *Remanufacturing Exclusion (40 CFR 261.4(a)(27))*

Exclusion for certain higher-value spent solvents remanufactured into commercial grade products

4. *Variances and Non-Waste Determinations (40 CFR 260.30 - 260.34)*

Strengthened existing DSW variances and Non-waste determinations to increase protectiveness and national consistency

5. *“Legitimate” Recycling Provision (40 CFR 261.2(g); 40 CFR 260.43)*

Prohibition on sham recycling and codified four factors of legitimate recycling.

Module 2:

Under the Control of the Generator Exclusion

- **Generator-controlled exclusion applies to hazardous secondary materials reclaimed by the generator:**
 - On-site
 - Within the same company
 - Within certain tolling manufacturing agreements

- **Conditions for the generator-controlled exclusion:**
 - Legitimately recycle materials (includes new recordkeeping requirement)
 - Not speculatively accumulate materials (includes new recordkeeping requirement)
 - Submit notifications (using the Site ID form 8700-12)
 - Ensure materials are “contained” (per the new codified definition)
 - Reclaim materials within the United States
 - Maintain records of shipments for recycling performed by the same company or per toll manufacturing agreements (new condition)
 - Meet emergency preparedness and response requirements (new condition)

What is “contained”?

“Contained” definition is codified in 40 CFR 260.10:

- The unit is in **good condition**, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

What is “contained” (continued)?

- The unit is **properly labeled** or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit; and
- The unit holds hazardous secondary materials that are **compatible with other hazardous secondary materials placed in the unit** and is **compatible with the materials used to construct the unit** and addresses any potential risks of fires or explosions.
- Hazardous secondary materials in units that meet the hazardous waste tank and container standards are presumptively contained.

Recycling Must be Legitimate

Generator Hazardous Waste Regulations

Must be legitimately recycled
according to codified
definition in 40 CFR 260.43

DSW Generator-Controlled Exclusion

Must be legitimately recycled
according to codified definition
in 40 CFR 260.43

Must maintain documentation
of their legitimacy
determination on-site per 40
CFR 261.4(a)(23)(ii)(E)

Storage

Generator Hazardous Waste Regulations

Must not store more than 90/180 days if an LQG/SQG

Must meet specific storage standards in 40 CFR 262

DSW Generator-Controlled Exclusion

Must meet speculative accumulation limits, including label indicating the first date material began to be accumulated per 40 CFR 261.1(c)(8)

Materials must be “contained” per 40 CFR 261.4(a)(23)(ii)(A)

Must meet legitimacy factor 3: “materials must be managed as a valuable commodity”

Emergency Planning / Training

Generator Hazardous Waste Regulations

- SQGs must meet the following requirements, including:
 - Test and maintain emergency equipment
 - Make arrangements with local authorities
 - Have an emergency coordinator
 - Report any releases
- LQGs must also meet the following requirements, including:
 - Meet specific personnel training standards
 - Prepare a contingency plan and submit it to local emergency responders

DSW Generator-Controlled Exclusion

Similar to the Generator requirements, depending on how much hazardous secondary material (HSM) is accumulated on-site. See 40 CFR 261.4(a)(23)(ii)(F) and 40 CFR part 261 subpart M.

- < 6,000 kg of HSM must meet SQG requirements for emergency preparedness and response
- > 6,000 kg of HSM must meet LQG requirements for emergency preparedness and response

Notification / Reporting

Generator Hazardous Waste Regulations

Must submit a Site ID form.

LQGs must submit a Biennial Report every other year

DSW Generator-Controlled Exclusion

Must submit a Site ID form per 40 CFR 261.4(a)(23)(ii)(C):

- Prior to managing hazardous secondary materials under the exclusion
- Every other year thereafter
- Within 30 days of stopping management under the exclusion

Exports

Generator Hazardous Waste Regulations

Must provide notice and receive consent.

Must file annual reports.

Must file exception reports.

Must use a manifest.

DSW Generator-Controlled Exclusion

Not allowed.

Module 3:

Verified Recycler Exclusion

- Under this exclusion, generators must:
 - Not speculatively accumulate materials (includes new recordkeeping requirement)
 - Submit notifications (using the Site ID form)
 - Ensure materials are “contained” (per the new codified definition)
 - Maintain records of off-site shipments and confirmations of receipt
 - Meet emergency preparedness and response requirements
 - Send hazardous secondary materials to verified recycling facilities that either have a RCRA permit or have obtained a variance

Shipping

Generator Hazardous Waste Regulations

Must use a manifest and maintain copies for 3 years.

Must comply with DOT regulations.

DSW Verified Recycler Exclusion

Must maintain records of shipments for three years per 40 CFR 261.4(a)(24)(v)(C).

Must maintain confirmations of receipt from the reclamation facility and any intermediate facility for three years 40 CFR 261.4(a)(24)(v)(D).

Must comply with DOT regulations.

Remanufacturing Exclusion

Subtitle C Regulation Requirements for GENERATORS	Remanufacturing Exclusion Conditions for GENERATORS
Must be legitimately recycling per 260.43	Must be legitimately recycling per 260.43
Cannot accumulate waste for more than 90 days without a permit	Must meet speculative accumulation limits & recordkeeping
Must meet specific storage standards for tanks and containers	Must be managed in RCRA-equivalent tanks and containers, including meeting applicable air emission standards
Must have emergency coordinator, test and maintain emergency equipment, and have emergency and personnel training plans	No specific RCRA emergency response requirements but must have joint remanufacturing plan in place; OSHA may apply
Applicable DOT regulations for transport	Applicable DOT regulations for transport
Manifest required Exception Reporting	Records of shipments off-site Confirmations of receipt
One-time notification Biennial Reporting	Notification every two years
Three-year record retention	Three-year record retention
Must ship hazardous waste to a TSDF (if TSD is storing prior to recycling)	Must ship to a remanufacturer who has notified that he is operating under the remanufacturing exclusion
Exports <ul style="list-style-type: none"> ○Notice & consent ○Annual reports ○Manifesting ○Exception Reports 	Exports <ul style="list-style-type: none"> ○ Not allowed

Subtitle C Regulation Requirements for RECLAIMERS AND STORAGE FACILITIES	Remanufacturing Exclusion Requirements for REMANUFACTURERS
Must be legitimately recycling per 260.43	Must be legitimately recycling per 260.43
Must obtain Subtitle C permit (if storing prior to recycling)	No permit required; must have joint remanufacturing plan in place
Waste analysis plan	No specific DSW requirements; MSDS reporting requirements in 40 CFR 370 may apply
Security measures	No specific DSW requirements; DOT transportation security requirements in 49 CFR 172 may apply
Financial assurance	Financial assurance not required
Must have emergency coordinator, test and maintain emergency equipment, and have emergency and personnel training plans	No specific RCRA requirements. OSHA may apply
Manifest requirements	Shipping records and confirmations of receipt required
Operating record Biennial report Three-year record retention	Notification every two years Three-year record retention
Specific design standards for tanks, containers, containment buildings, surface impoundments and inspection requirements	Hazardous secondary materials must be managed in RCRA-equivalent tanks and containers, including meeting applicable air emission standards

Questions?

Ed Buckner

Waste Enforcement and Materials Management Branch

EPA Region 7

11201 Renner Blvd.

Lenexa, Kansas 66219

913-551-7621

buckner.edwin@epa.gov